

October 17, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L05P0025**
Proposed Ordinance No. **2007-0455**

HIBBFORD GLEN

Preliminary Plat Application and Transfer of Density Credits

Location: 28125 – 34th Avenue South, Auburn

Applicant: Greater Puget Sound Holdings LLC
represented by **Harold Duncanson**
Duncanson Company
145 Southwest 155th Street, #102
Burien, Washington 98166
Telephone: (206) 244-4141

King County: Department of Development and Environmental Services (DDES)
represented by **Chad Tibbits**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7194
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions (modified)

EXAMINER PROCEEDINGS:

Hearing Opened:	October 11, 2007
Hearing Continued for Administrative Purposes:	October 11, 2007
Hearing Closed:	October 16, 2007

Participants at the public hearing and the exhibits offered, entered and proposed are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES AND TOPICS ADDRESSED:

Access and road improvements; utility easements; surface water drainage

SUMMARY:

The proposed subdivision of 22 lots in the urban area, utilizing the transfer of 8 density credits, is approved subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Applicant:	Greater Puget Sound Holdings, LLC John Tamburelli 2011 S. 341 st Place Federal Way, WA 98003 206-920-2220
Engineer:	Duncanson Company, Inc. 145 SW 155 th Street, Suite 102 Seattle, WA 98166 206-244-4141
STR:	34-22-04
Location:	The site is located south of Star Lake and east of Interstate 5 between 32 nd Avenue S. & 34 th Avenue S., north of S. 282 nd Street. The property is addressed as 28125 34 th Avenue South, Postal City of Auburn, WA.
Zoning:	R-4
Acreage:	3.99 acres
Number of Lots:	22
Density:	Approximately 6 units per acre
Lot Size:	Approximately 3,760 to 7,207 square feet in size
Proposed Use:	Single Family Detached Dwellings
Sewage Disposal:	Lakehaven Utility District
Water Supply:	Highline Water District
Fire District:	King County Fire District No. 39
School District:	Federal Way School District No. 410
Complete Application Date:	January 24, 2006
Associated Applications:	Drainage Adjustment L06V0074 (Attachment 2)

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the October 11, 2007, public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the transfer of density credits and preliminary plat, subject to conditions.
3. Access to the subject property will be provided by a "loop" street intersecting with South 282nd Street at 31st Place South and 32nd Place South. South 282nd Street will be improved as an urban half street. South 282nd Street connects with 34th Avenue South at the southeast corner of the subject property. 34th Avenue South will be improved from South 282nd Street to South 280th Street with a minimum 20-foot wide paved road with curb, gutter and sidewalk on the west side. South 280th Street connects to 37th Avenue South, which intersects with South Star Lake Road.

An alternative route from this subdivision to Star Lake Road will be provided with the development of the plat of Madeline Meadows, located north of Hibbford Glen. When Madeline Meadows is developed on the north side of South 280th Street, adjacent to 32nd Avenue South, a connection will be provided from South 280th Street to Star Lake Road through Madeline Meadows and the existing "Star Lake Townhouses", via South 279th Street and 31st Place South. This additional route will provide a secondary access to Hibbford Glen and the surrounding area. The development of this secondary access will establish compliance with the King County Road Standards' requirement that no more than 100 residential lots be developed with a single access to the county arterial road system.

An adjacent property owner expressed concern at the hearing with the safety of Star Lake Road at and near the intersection of 37th Avenue South. Development of Hibbford Glen will impact the existing intersection of 37th Avenue South and Star Lake Road. For an impact to be significant pursuant to the King County Road Standards concerning level of service (KCC 14.80), more than 30 trips per hour must be added by the proposed development to that intersection. The number of peak hour trips from Hibbford Glen through the intersection of 37th Avenue South and South Star Lake Road will be fewer than 22.

4. The King County Department of Transportation has not identified the intersection at 37th Avenue South and Star Lake Road as a significant safety hazard. However, the Department of Transportation identified the intersection of Military Road South/South Star Lake Road as a potential hazard to safety with the addition of traffic to and from Hibbford Glen. In response to that impact, a mitigated determination of environmental non-significance was issued that establishes a requirement for improvements to that intersection as a condition of this development. Those improvements, as set forth in condition no. 16 (repeating the conditions of the MDNS) must be met prior to final plat approval.
5. 32nd Avenue South adjacent to the west property line of Hibbford Glen is an unopened public right-of-way. A primitive roadway exists on this right-of-way. This road will not be affected by the proposed development, and no improvements to 32nd Avenue South are required. Existing easements for utilities within 32nd Avenue South and South 282nd Street will not be affected by the proposed development. Any utility easements within the subject property must be accommodated by the development in accordance with their terms.

A settlement agreement between the owner of the subject property and adjacent property owner(s) establish private contractual rights which are not affected by King County's action on the subdivision application.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable and proportionate requirements necessary to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant on June 13, 2007, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The proposed subdivision of Hibbford Glen, as revised and received on June 13, 2007, is granted preliminary approval, together with the transfer of up to 8 density credits, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the maximum density and minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

The applicant shall provide the TDR Certificate with the submittal of the engineering plans and final plat. If the TDR Certificate cannot be obtained, the applicant shall redesign the number of lots based upon the allowable density. This will result in the reconfiguration and loss of lots.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. A drainage adjustment (L06V0074) is approved for this site. All conditions of approval for this adjustment shall be met prior to approval of the engineering plans.
 - e. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.

7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. The internal loop access road (31st Pl S, S 281st PL, 32nd Pl S), shall be improved at a minimum to the urban subaccess street standard.
 - b. FRONTAGE: The frontage along S 282nd St. shall be improved at a minimum to the urban ½-street standard. Adequate county R/W shall be provided for this improvement.
 - c. OFFSITE: 34th Ave S., from S 282nd Street to S 280th Street, shall be improved to a minimum 20-foot wide paved road with curb, gutter and sidewalk on the west side. This improvement shall be designed in general conformance with the conceptual improvement plan received June 13, 2007, unless otherwise approved by DDES. It is noted that the affected offsite owners have given written approval for the necessary driveway reconfigurations. Minor modification to this design may be required with the detailed engineering plan preparation and review.

The above 34th Ave S improvement shall comply with the pavement overlay requirements in Section 4.01(F) of the KCRS.
 - d. OFFSITE IN MADELINE MEADOWS: 32nd Pl South/ South 279th Street, from South 280th Street to the existing South 279th Street stub (east boundary of Star Lake Townhomes) shall be improved to at least the half-street standard for an urban subcollector. This would include a minimum 20 feet of paving along an approved vertical alignment, plus a paved shoulder, and stormwater systems to address runoff from these roadway improvements. The full improvement is to be required with the proposed subdivision of Madeline Meadows L06P0028. The road improvement is necessary for both subdivisions in order to comply with the 100-lot rule Section 2.20 of the KCRS. The improvement shall either be guaranteed with the recording of Madeline Meadows; or provided by this subdivision prior to recording. Appropriate R/W is required for both options.
 - e. Tracts B and C shall be improved to the joint use driveway standard per Section 3.01 of the KCRS. These Tracts shall be owned and maintained by the Lots served.
 - f. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75,

Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
11. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in K.C.C. 21A.24. Permanent survey marking, and signs as specified in K.C.C. 21A.24.160 shall also be addressed prior to final plat approval.

Geotechnical

The Applicant shall include with the submittal of engineering plans a detailed grading plan for the roads and lots that shows all proposed cuts and fills, the location and height of any planned rockeries and retaining walls, and the proposed erosion control plans. These plans shall be reviewed and approved by a DDES engineering geologist or geotechnical engineer.

12. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
13. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation area tract(s).
14. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.

- c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if 34th Avenue S. is on a bus route. If 34th Avenue S. is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
15. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.
16. The following have been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The applicants shall demonstrate compliance with these items prior to final approval.
- 1. In order to mitigate the significant adverse impact (14.80.030B and PUT10-3-3(PR) §6.2.2.2) that the proposed development will have at the intersection of Star Lake Road/Military Road:
 - a. The applicant shall reshape Military Road to provide a center merge/refuge lane as necessary to be used to receive left turning vehicles from Star Lake Road. This shall include reconstruction of the existing roadway shoulders in, at least, their current width (KCRS 1.03B, KCRS 3.07B), together with all necessary channelization and illumination in accordance with the 1993 King County Road Standards.
 - b. The applicant shall widen Star Lake Road to provide a 100 ft. left turn lane on the Star Lake Road approach. This shall include reconstruction of the existing

roadway shoulders in, at least, their current width (KCRS 1.03B, KCRS 3.07B), together with all necessary channelization and illumination in accordance with the 1993 King County Road Standards.

Plans for these improvements shall be submitted to the King County DOT Traffic Engineering Section for review and approval.

17. To implement K.C.C. 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of K.C.C. 21A.38.230. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 21A.38.230.B.4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 21A.38.230.B.4.d.(2).
18. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. 21A.38.230.B.6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

ORDERED this 17th day of October, 2007.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 17th day of October, 2007, to the parties and interested persons of record:

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Duncanson Co., Inc.
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NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before October 31, 2007***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before November 7, 2007***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE OCTOBER 11, 2007, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05P0025.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Chad Tibbits, Bruce Whittaker and Kristen Langley, representing the Department; Harold M. Duncanson, representing the Applicant, and Tricia Mullen and Robert Mullen.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L05P0025
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report, dated October 11, 2007
- Exhibit No. 3 Application for Land Use Permits received December 12, 2005

- Exhibit No. 4 SEPA checklist received December 12, 2005
- Exhibit No. 5 SEPA Determination of Non-Significance issued August 31, 2007
- Exhibit No. 6 Affidavit of Posting indicating a posting date of March 7, 2006; received by DDES on March 15, 2006
- Exhibit No. 7 Preliminary plat map received June 13, 2007
- Exhibit No. 8 Revised Level 1 Downstream Analysis prepared by Duncanson Company, Inc., received July 28, 2006
- Exhibit No. 9 L06V0074 King County Storm Water Drainage Manual (KCSWDM) Adjustment (attachment 2 for the preliminary report to the Hearing Examiner)
- Exhibit No. 10 Site Observation (Wetlands) prepared by Alder NW dated August 18, 2005
- Exhibit No. 11 Revised Conceptual Drainage Plan prepared by Harold Duncanson dated June 13, 2007
- Exhibit No. 12 Conceptual Recreation Space Plan prepared by Harold Duncanson dated June 13, 2007
- Exhibit No. 13 Photographs showing school walking conditions analysis dated June 13, 2007
- Exhibit No. 14 Revised Traffic Impact Analysis prepared by Transportation Consulting Northwest, received August 17, 2006
- Exhibit No. 15 Geotechnical Engineering Study prepared by Earth consultants, Inc. dated November 10, 2005
- Exhibit No. 16 Density Credit Transfer Agreement received on December 12, 2005
- Exhibit No. 17 Three photographs of Military Road at Star Lake Road
- Exhibit No. 18 Conceptual road, drainage, grading and utility plan for Madeline Meadows

The following proposed Exhibits were received on October 15 and 16, 2007, and were not entered into the record:

- Proposed Exhibit No. 19 Email from Tricia Mullen to the Hearing Examiner dated October 15, 2007
- Proposed Exhibit No. 20 Letter from Duncanson Company, Inc. to the Hearing Examiner dated October 16, 2007